

**TENNESSEE BOARD OF PHARMACY
JULY 10 - 11, 2002
ROOM 160 - DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE**

BOARD MEMBERS PRESENT:

Alan Corley, President
Forrest Parmley, Vice President
Barbara McAndrew, Public Member
Robert Shutt, Member
Reggie Dilliard, Member
Paula Hinson, Member

STAFF PRESENT:

Kendall Lynch, Director
Cecil Ross, Legal Counsel
Martha Agee, Board Administrator
John Beauregard, Pharmacist Investigator
Terrence Cannada, Pharmacist Investigator
Harry Fuqua, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Wednesday, July 10, 2002, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CDT by Dr. Alan Corley, President.

Dr. Alan Corley noted for the record that Dr. Julie Frazier would not be in attendance for the meeting. Director Kendall Lynch introduced a 4th year Mercer student who is completing his rotations at Southern Hills. Dr. Kendall Lynch introduced four (4) students; one (1) medical student; two (2) pharmacy students; and one (1) law student, who are participating in the Tennessee Interdisciplinary Program.

RECIPROCAL EXAMINATION

The Jurisprudence Examination was administered to twenty-two (22) applicants, beginning at 10:00 a.m. CDT on Wednesday, July 10, 2002. The examination was administered by Pharmacy Board Investigators. All of the applicants successfully completed the examination, were interviewed by the Board and approved for licensure. On July 24, 2002 the Jurisprudence Exam was administered to two (2) reciprocal candidates in the Board office. The applicants successfully completed the examination and were approved for licensure.

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SCORE TRANSFER/NAPLEX JURISPRUDENCE EXAMINATION

The Jurisprudence Examination was administered to ten (10) Score Transfer examinees, thirteen (13) NAPLEX examinees, and two (2) reinstatement examinees in Room 640 of the Davy Crockett Tower at 10:00 a.m. CDT on Wednesday, July 10, 2002. The examination was administered by the Pharmacy Board Investigators. All of the applicants successfully completed the Jurisprudence Examination, with the exception of one (1) reinstatement candidate.

On July 23, 2002, one (1) reinstatement candidate and on August 12, 2002, one (1) NAPLEX candidate were administered the Jurisprudence Exam and both successfully completed the exam.

APPROVAL OF THE MINUTES

The minutes of the **May 15 - 16, 2002** board meeting were presented and reviewed by the Board. The minutes were delayed until July 11, 2002.

Dr. Forrest Parmley motioned to **approve the minutes**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

DONNA SHEPARD - REQUEST FOR REINSTATEMENT OF LICENSE WINCHESTER, TN

Dr. Donna Shepard appeared before the Board to request reinstatement of her pharmacist license. Advocating on her behalf were Drs. John Crow, Morris Haddox, and Mike Matheny with the TPRN. Director Kendall Lynch informed the Board on August 24, 2001, Loss Prevention at Wal-Mart contacted the office advising Dr. Donna Shepard had admitted to forging prescriptions for Phentermine. Dr. Shepard surrendered her license in August, 2001 and entered Talbott Recovery. Dr. Shepard stated she had used marijuana and phentermine while in college. Dr. Shepard stated she has

completed her 90/90 and has received support from TPRN's home group and her family. Talbott has not placed any restrictions on Dr. Shepard's return to work. Dr. Shepard stated she had no criminal charges against her and has paid for the prescriptions. Dr. Matheny stated Dr. Shepard is attending three (3) meetings a week and contacts the urine hotline daily for screening. Dr. Matheny and Dr. Haddox are also advocating on her behalf. Dr. Reggie Dilliard motioned:

1. Respondent does hereby agree to the reinstatement of license number 6297 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by her primary physician, Mark Josovitz, MD. The Respondent shall immediately notify the Board office of the name of her primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

WAIVERS

COLIN MURCHISON, DPH

11 Gunpowder Ridge
Ft. Thomas, KY 41075

Dr. Colin Murchison is requesting a waiver of Rule 1140-5-.01 relevant to the fifteen (15) Live

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ACPE continuing education hours. The State of North Carolina is Dr. Murchison's original state of licensure and the North Carolina Board of Pharmacy also requires live CE's. The North Carolina Board waived the Live CE requirement as Ohio, the state in which Dr. Murchison practices, does not require live contact hours. Dr. Murchison has never practiced in the State of Tennessee nor is currently employed in Tennessee and is requesting a hardship waiver. Dr. Murchison stated in his letter that he has family in Tennessee and may want to move in the future. Dr. Paula Hinson motioned to **grant the waiver for this license period** and direct a letter to him that he will need to provide live contact hours for the next renewal. Dr. Forrest Parmley seconded the motion. All were in favor and the motion carried.

LAURIE NEWBY, DPH
1505 Paddington Drive
Bloomington, IL 61704

Dr. Laurie Newby is requesting a waiver of Board of Pharmacy Rule 1140-5-.01 relevant to the fifteen (15) Live ACPE contact hours. Dr. Newby stated Illinois does not require Live ACPE hours. Dr. Newby stated she is currently going through a divorce and is planning on relocating to Knoxville and needs to seek employment immediately. Dr. Robert Shutt motioned in **reinstate the license with the stipulation that Dr. Newby has six (6) months to obtain Live ACPE CE's and those hours would not be counted towards the next renewal cycle.** Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

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BRAD STANDEFER, DPH
ACCESS DRUGS, LLC
4062 Hixson Pike
Chattanooga, TN 37415

Dr. Brad Standefer is requesting a waiver of Rule 1140-3-.14 (12) regarding the pharmacist in charge provision at two (2) locations. Dr. Standefer is currently the pharmacist in charge at Access Drugs, LLC and is requesting to be PIC at Access Compounding Pharmacy. Both pharmacies are located in the same facility with Access Compounding filling approximately twenty-five (25) prescriptions per day. Dr. Robert Shutt motioned to **grant** the waiver, seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

MARTI GOEMANN, DPH
Vanderbilt University Medical Center
Oncology Pharmacy
1161 21st Avenue South
Nashville, TN 37232

Dr. Marti Goemann is requesting a rollover of sixteen (16) continuing education hours for the ASPH Oncology Pharmacy Practice Speciality Certification Exam Review Course which was held in June, 2002. Dr. Goemann's license will expire in July, 2002 and she has obtained the required CE's for this renewal cycle. Dr. Paula Hinson motioned to **deny** the request; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

REPRESENTATIVE SHELBY RHINEHART, DPH
LEGISLATIVE PLAZA PHARMACY
NASHVILLE, TN

Director Kendall Lynch advised the Board that Dr. Shelby Rhinehart had a stroke several weeks ago and has decided not to run for re-election. Dr. David Shepard is requesting to be the pharmacist in

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charge at two (2) locations due to Representative Rhinehart's decision. Dr. David Shepard is currently the PIC at Dickson Apothecary East in Lyles, Tennessee. Dr. Robert Shutt motioned to **approve** the waiver; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

**RONALD DUNIVAN, DPH – INFORMAL CONFERENCE
FAYETTEVILLE, TN**

Legal Counsel, Cecil Ross, stated at the May 15 – 16, 2002 meeting, Dr. Ronald Dunivan was instructed to furnish evidence of his medical condition to determine if he was competent to practice pharmacy. The board office received letters from Dr. Duncan Ross, Staff Psychiatrist and Ms. Marsha Hedayat, LPE, Clinic Coordinator with Highland Rim Mental Health Center; and Centerstone Community Mental Health Center. Mr. Ross stated the Board is not disqualified from taking any action, that the waiver is still in effect for this hearing. President Alan Corley asked Dr. Dunivan to update the Board since meeting with him in May, 2002. Dr. Dunivan stated he had knee surgery and was not working, but indicated Bi-Lo was a potential employer. Dr. Dunivan informed the Board of the continuing education courses he had completed. Dr. Corley inquired if he was physically able to return to work from the knee surgery which took place on April 26, 2002 and Dr. Dunivan responded, "yes". Dr. Reggie Dilliard inquired if the medical records could be released so the board could review and Dr. Dunivan stated "yes". After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number **5515** with the following probationary conditions. Said probation shall remain in effect for the **duration of active licensure.**

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Larry Barnes, MD/ Duncan Ross, Psychiatrist. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused medications prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of two (2) years, however, after a period of one (1) year, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause. The Respondent must provide monthly reports regarding the Lithium levels indicated on the doctor's reports, in compliance with his treatment from the physicians.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

The Respondent may petition the Board for a Modification of this Order at any time.

Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

Legal Counsel, Cecil Ross, stated the second item for discussion was in reference to a waiver of the fifteen (15) ACPE Live continuing education hours. Dr. Dunivan's license expired on July 31, 2001. Dr. Paula Hinson motioned to **grant the waiver (fifteen (15) Live ACPE CE hours) to reinstate the license pending the execution of the Consent Order.** Mrs. Barbara McAndrew seconded the motion. All were in favor and the motion carried.

**JOSEPH AURALLE, DPH – RECIPROCAL CANDIDATE
PRESCRIPTIONONLINE.COM
LAS VEGAS, NV**

Mr. Sherwood Cook, Attorney representing PrescriptionOnLine.com and Dr. Joseph Auralle stated Dr. Auralle became ill and was unable to attend the meeting. Director Kendall Lynch informed the

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Board that PrescriptionOnLine.com located in Las Vegas, Nevada has been licensed since December, 1999. The renewal became due on December 31, 2001 and the license would not issue due to the PIC not being licensed. In January, 2002, the Board received notice that Dr. Auralle would be the new PIC, who was not currently licensed. In March, 2002, the company requested a letter from the Tennessee Board stating their license was in order. Since there had not been a PIC since February, 2001, a letter was mailed to the company to Cease and Desist, with which the company complied. On March 19, 2002, Dr. Auralle took the law exam and furnished copies of his NABP application which indicated he had been the subject of disciplinary action. Dr. Auralle was disciplined by the Nevada Board in 1991 for dispensing without authorization and was placed on 30 days + one (1) year suspension of license. Dr. Auralle was dispensing Halcion, Xanax, and Lortab for personal use. In 1992, Dr. Auralle was disciplined for violating his probation and placed on indefinite probation. Both California and Illinois took action pursuant to the Nevada action. Dr. Auralle appeared before the Board in Illinois and the California issue has not been resolved since Dr. Auralle is not a resident of that state. Mr. Sherwood Cook, attorney, advised that the disciplinary action prior to Nevada could be settled by filing a petition to terminate probation from Dr. Joseph Auralle. Mr. Cook stated the 1992 Nevada disciplinary for three (3) years probation is expired. The Nevada license is active and in good standing. Dr. Auralle appeared before the Illinois board on Monday and hopefully the petition to terminate probation should take place and the license should be active. Director Kendall Lynch responded to a question from Dr. Parmley that PrescriptionOnLine.com filled, from the time there was no PIC licensed, approximately 6,000 prescriptions of which 90% were for controlled substances. After Board discussion, Dr. Robert Shutt motioned to **deny** the

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request for licensure based on the probation in the other two (2) states; seconded by Dr. Forrest Parmley. Dr. Shutt then motioned to withdraw the application. The motion failed for the lack of a second. Mr. Cook mentioned the company is not trying to pull a “fast one” but wants to comply with the licensing requirements of each state. All were in favor and the motion carried.

**MICHAEL DECHRISTAFARO – REQUEST FOR REINSTATEMENT OF LICENSE
CROSSVILLE, TN**

Dr. Michael DeChristafaro appeared before the Board along with advocates Dr. Larry Branstetter with TRPN and Mr. Eric Amburgey with Cornerstone. Director Kendall Lynch advised the Board that Dr. DeChristafaro surrendered his pharmacist license on December 31, 2001 due to chemical dependency. Dr. DeChristafaro expressed appreciation to the Board for allowing him to appear. Dr. DeChristafaro stated his addiction began in 1998 with alcohol and Hydrocodone. Dr. DeChristafaro stated he was able to obtain the controlled substances from customers who did not pick up their medications. Dr. DeChristafaro had previously attended a treatment program and feels more successful this time because of his spiritual program. Dr. DeChristafaro stated he was admitted to Cornerstone; is in the twelve step program and has completed the 90/90 meetings. Dr. DeChristafaro also has a support network in place. Dr. Larry Branstetter stated Dr. DeChristafaro is now able to seek help and is ready to be reinstated. Mr. Eric Amburgey stated Dr. DeChristafaro has complied with Cornerstone’s recommendations and will probably work part-time at first. After Board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number **10739** with the following probationary conditions. Said probation shall remain in effect for a

period of ten (10) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Charles Downs, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network.

Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

**ROBERT PEARSALL – REQUEST FOR REINSTATEMENT OF LICENSE
KNOXVILLE, TN**

Dr. Robert Pearsall appeared before the Board to request reinstatement of his pharmacist license. Dr. Edwin Bills with TPRN and Mr. Eric Amburgey with Cornerstone advocated on his behalf. Director Kendall Lynch advised the Board in September, 2001, pharmacist investigator Dr. Ralph Staton stated Dr. Pearsall had contacted him regarding a problem with Hydrocodone. Dr. Staton contacted TPRN who in turn contacted Dr. Pearsall. Dr. Pearsall surrendered his pharmacist license in October, 2001. Dr. Pearsall stated he had a respiratory ailment and was prescribed A-Tuss MS cough syrup. Dr. Pearsall stated he realized he was taking more than the prescribed dosage amount. In September, 2001, Dr. Pearsall was terminated from Food City and subsequently entered Cornerstone. Dr. Pearsall stated he has completed the 90/90 meetings. Dr. Edwin Bills stated Dr.

Pearsall was compliant with the TPRN contract. Dr. Pearsall mentioned that he and his wife were consulting with a marriage counselor. Mr. Eric Amburgey with Cornerstone stated he was in compliance with his treatment program. After board discussion, Dr. Paula Hinson motioned:

1. Respondent does hereby agree to the reinstatement of license number 7204 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Rickey Manning, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Reggie Dilliard seconded the motion. All were in favor and the motion carried.

INTRODUCTION OF NEW STAFF ATTORNEYS REGULATORY DIVISION

Legal counsel, Cecil Ross, introduced two (2) new staff attorneys for the Regulatory Division of the Department of Commerce and Insurance, Ms. Alison Zane and Mr. Andy Cunningham. On behalf of the Board, Dr. Alan Corley welcomed the new attorneys.

NEW COMPLAINTS

1) L01-PHR-RBS-200102014

In February 2002, the respondent, a licensed pharmacist, entered a plea of guilty to two counts of identity theft. Her crimes were committed in connection with the diversion of controlled substances including Phentermine, Sonata, Tussionex and Vicodin. It has been credibly alleged that the amount of substances she converted is actually greater than that which she pleaded to. She has not been active as a pharmacist since her conviction. A prospective employer has asked DEA for a waiver of 21 CFR 1301.76(a). On April 24, she asked that her Tennessee license be placed in inactive status. Her attorney, in anticipation of Board action, has proposed a consent order which includes the following provisions: A suspension of 14 days, stayed in view of her inactive status; a 1-year period of probation with a bar on serving as PIC, consent to unannounced drug testing, and an agreement not to dispense any drugs for herself or any members of her family.

Recommendation: Reject the proposed consent order. Issue a consent order for 1-year suspension (with time inactive since the conviction to be applied to it) and at least 5 years of probation with the standard conditions. At the end of the suspension period, she should be required to appear personally before the Board with the advocacy of some recognized rehabilitation group and petition for reinstatement.

Dr. Paula Hinson motioned to **reject the proposed Consent Order**; seconded by Dr. Forrest Parmley. Dr. Hinson motioned that the Respondent is to appear before the Board to request reinstatement pending the duration of the criminal probation; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried.

2) L01-PHR-RBS-200105628

A two-part complaint. Complainant alleges that in October 2001 she refilled a Rx for 10mg Zyrtec and received a bottle with both 5mg and 10mg tablets. She also alleges that in November 2001 she refilled a Rx for Fluoxetine 20 mg and received a bottle with 52 x 20 mg tablets and 8 x 10 mg tablets. None of the store's pharmacists remember the incident or any contact with the complainant. The Rx's were filled from Baker cells. The complainant submitted a bottle which did contain the 8 tablets of 10mg Fluoroxitene.

Previous complaints: DPH--None

Store--Two. April 95, wrong directions; dismissed.

December 99, misfill; LOI.

Recommendation: Insufficient evidence for the Zyrtec incident. Complainant's evidence makes it seem probable that the Fluoxitene mistake occurred. **LETTER OF INSTRUCTION to DPH.**

Dr. Forrest Parmley motioned to **accept** counsel's recommendation; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

3) L02-PHR-RBS-200206242

During a routine inspection, the Board's inspector observed that there was no pharmacist on the premises. No sign was posted and the Rx was not closed off by a barrier. A technician said the pharmacist had gone to lunch; he returned about 20 minutes later. In that interval the technician was observed entering the pharmacy area and giving some Rxs to customers. The pharmacist said he had not gone to lunch but had been summoned to a physician's office. There was no real explanation for the technician's actions.

Previous complaints: DPH--none.

Store--One. (Feb 1990; refill w/o permission; dismissed)

Recommendation: Letter of Warning to DPH for absence, and for the improper dispensing of Rxs.

Dr. Paula Hinson motioned to **accept** counsel's recommendation; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

4) L02-PHR-RBS-200206542

Complainant says that she received a Rx for Cefzil 250mg/5ml with directions to take two tsps twice a day for 10 days, with a dosage spoon. The Rx ran out after 6 days, so she alleges that the store must have shorted her or mixed the contents wrong. The pharmacy's records indicate the Rx was for one tsp per day, not two, and asserts that the customer must have given the wrong dosage by mistake.

Previous complaints: DPH--none.

Store--three (June 90, rudeness and long delay; dismissed)
(July 99, misfill; LOI)
(Sept 01, out of date medicine; LOI)

Recommendation: Dismiss.

Dr. Forrest Parmley motioned to **accept** counsel's recommendation; seconded by Mrs. Barbara

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McAndrew. All were in favor and the motion carried.

5) L02-PHR-RBS-200206833

Complainant said that her doctor's office called her at 5:00 and told her that her Rx was being phoned in to the store. When her husband went to the store at 7:30 he was told that the Rx had not been called in. No one at the store remembers the incident. Pharmacy records indicate the Rx was filled at 8:10.

Previous complaints: DPH--one (Mar 00; 2 diff strengths in one bottle; LOI)
Store--one (July 99; alleged shorting, dismissed).

Recommendation: Dismiss.

Dr. Paula Hinson motioned to **accept** counsel's recommendation; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

6) L02-PHR-RBS-200207187

On a regular inspection, the Board's inspector noted that the license of the PIC had expired slightly more than three months earlier. The PIC admitted the violation, and is now current.

Previous complaints: Pharmacist--none

Recommendation: Consent order for \$300 civil penalty.

Dr. Paula Hinson motioned to issue a **Consent Order for \$300 civil penalty and require pharmacist to obtain an additional six (6) Live CE's hours**; seconded by Mrs Barbara McAndrew. All were in favor and the motion carried.

7) L02-PHR-RBS-200207188

Complainant alleges that pharmacy filled her Rx for Combipres at the wrong strength, using an older Rx rather than the new one, which called for a higher strength. She was underdosed for three weeks before the error was discovered and says that when she bought it in for correction the staff were "hateful." Apparently the error resulted from the fact that the new Rx was from a new doctor; the staff had called the old doctor to authorize a refill, and he did not know of the newer Rx.

Previous complaints: None, for pharmacists or store.

Recommendation: Letter of Instruction to PIC

Mrs. Barbara McAndrew motioned to **accept** counsel's recommendation; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

8) L02-PHR-RBS-200207399

Alleges that when a new Rx was phoned in to the pharmacy, an old Rx was refilled instead, and that when the complainant's spouse brought the problem to the DPH's attention, the DPH called him "dumb" for not having checked the medicine at the counter when he picked it up. Apparently someone called in the new Rx and the doctor later phoned in refill. The people apparently just assumed that the refill was cancelled, when in fact it had not been, no one having asked for cancellation. The DPH denies calling anyone "dumb."

Previous complaints: None for either store or DPH.

Recommendation: Dismiss.

Dr. Forrest Parmley motioned to **accept** counsel's recommendation; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried.

9) L02-PHR-RBS-200207746

Complainant alleges that her Rx for Synthroid was shorted by 11 tablets. The store is not certain there was a miscount but replaced the tablets anyway.

Previous complaints: DPH--none
Store--three.

Recommendation: Dismiss.

Mrs. Barbara McAndrew motioned to **accept** counsel's recommendation; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

10) L02-PHR-RBS-200207747

A Rx for Propylthiouracil (PTU) was misfilled with Purinethol. The store admits the error, which was made by a pharmacy technician. The patient took the wrong drug for two months; no ill effects. Although the patient was counseled, nobody realized that it was the wrong drug, and the reviewing DPH did not catch the error.

Previous complaints: DPH1--one (Sept 01,CLE deficiency; \$300)
PIC--one (Aug 93, drugs in wrong bottle; dismissed)
Store--two (Dec 91, overfill of Rx; LOI)
(Aug 93, drugs in wrong bottle; dismissed).

Recommendation: Letter of Instruction to PIC and reviewing DPH.

Dr. Reggie Dilliard motioned to **accept** counsel's recommendation; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

11) L02-PHR-RBS-200207749

A physician received an inquiry from an insurance company concerning the authenticity of certain Rxs filled at respondent Pharmacy. The doctor had not written any of the Rxs and, suspecting diversion, contacted the Board. The Board's inspector discovered that there are two physicians in the area, each apparently unknown to the other, who have the same surname (a rare one in this area). Moreover, both of these physicians are licensees of an adjacent state (the pharmacy being in a town near the border). This state assigns a prescriber ID number to each practitioner. Apparently, the pharmacy phoned the licensing state to obtain this number for the prescriber, and was mistakenly given the number for the other doctor (the complainant). This number was the one entered into the pharmacy's database, which accounts for the Rxs being attributed to the complainant. The investigator found no other irregularities.

Previous complaints: None, for either DPH or store.

Recommendation: Dismiss.

Dr. Reggie Dilliard motioned to **accept** counsel's recommendation; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

12) L02-PHR-RBS-20027836

Complainant is an MD alleging improper conduct in relation to a Rx for one of his patients. This patient was prescribed a generic form of Adderall and said that it did not work and that he wanted to switch it for the brand name, adding that a DPH at that store (unidentified) had told him he could do that. The respondent DPH informed the patient that he must have misunderstood, since that was not possible for a C-II narcotic like Adderall. The patient became upset and left, returning later with a Rx for the brand name (according to the doctor, he had been given an undated Rx for emergency use). Suspicious of the patient's behavior, the DPH contacted the doctor and offered to fill the new Rx (for the brand name) if the patient would

return the generic for destruction. The doctor rejected this and the patient left with his generic medication. The doctor alleges that the DPH should not have offered to take back the medicine.

Previous complaints: None, for either DPH or store.

Recommendation: Strictly speaking, there is no actual violation at all, but I would recommend an LOI to the DPH, since taking the generic back would have been a violation if she had actually done it. Kendall notes that action against the doctor is possible for giving an undated Rx in violation of 12 CFR 1306.05, but suggests an informal letter to the doctor rather than reporting it to her Board. This seems reasonable.

Dr. Reggie Dilliard motioned to **dismiss the complaint and send an informal letter to the physician regarding the violation under 12 CFR 1306.05**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

13) L02-PHR-RBS-200208218

Complainant's Rx for Anaprox DS was mistakenly filled with generic Bactrim DS, which was taken for two doses before the error was discovered (no apparent ill effects). The DPH admits the error and cites workload, physician's poor handwriting on the Rx and similar product labeling as mitigating factors. The handwriting on the Rx is indeed poor; the entry for Anaprox could easily be mistaken for something else, but not Bactrim.

Previous complaints: DPH--one (Jan 00; alleged shorted Rx; dismissed)
Store--one (same incident; dismissed)

Recommendation: Letter of Instruction to DPH.

Dr. Robert Shutt motioned to **accept** counsel's recommendation; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried.

14) L02-PHR-RBS-200209005

In June 2002, respondent, a licensed pharmacist, pled guilty to one count of obtaining a controlled substance by fraud (a Class D felony) and one count of theft of property less than \$500 in value (a misdemeanor). He was sentenced to two years of community service on the felony count and supervised probation on the misdemeanor count. He did not report either conviction to the Board. This respondent has been suspected for some time of having serious drug dependency problems. After his arrest on these charges in 2000, the director urged him to surrender his license and seek treatment, but he refused, insisting that he had no problem. This respondent was

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also arrested by another county for possession of legend drugs and controlled substances for resale; this prosecution is still pending.

Recommendation: Formal hearing for revocation.

Dr. Reggie Dilliard motioned to **accept** counsel's recommendation; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

ADJOURNED

Dr. Alan Corley adjourned the Board of Pharmacy meeting on Wednesday, July 10, 2002 at 4:30 p.m. CDT.

RECONVENED

The Board of Pharmacy reconvened on Thursday, July 11, 2002 at 9:15 a.m. CDT in Room 160 of the Davy Crockett Tower. President Alan Corley called the meeting to order. All members were present with the exception of Dr. Julie Frazier.

CONSENT ORDERS

DAVID H. BELEW, DPH
3170 Haggard Drive
Knoxville, TN 37917

Legal counsel, Cecil Ross, presented the Consent Order for Reinstatement of License for Dr. David Belew. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

ARTHUR DELASHMET, DPH
178 Old Highway 15
Ecru, MS 38841

Mr. Cecil Ross, legal counsel, presented a Consent Order for Revocation of License as Dr. Arthur Delashmet violated his probation due to relapsing for chemical dependency. Mr. Ross stated Dr.

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Delashmet was participating in the MARC program in Mississippi and self-reported the violation.

Dr. Reggie Dilliard motioned to **accept** the Consent Order; seconded by Mrs. Barbara McAndrew.

All were in favor and the motion carried.

RAYMOND FREDERICK, DPH

8704 Farmington Drive
Knoxville, TN 37923

Legal counsel, Mr. Cecil Ross, presented a Consent Order for Reinstatement of License for Dr.

Raymond Frederick. Dr. Forrest Parmley motioned to **accept** the Consent Order; seconded by Dr.

Paula Hinson. All were in favor and the motion carried.

TAMMIE L. HALE, DPH

1732 Crestwood Drive
Chattanooga, TN 37214

Mr. Cecil Ross, legal counsel, presented a Consent Order for Reinstatement of License for Dr.

Tammie Hale. Mr. Ross stated for the record that Dr. Hale has attached a copy of the TPRN contract

with her signed consent order. Dr. Paula Hinson motioned to **accept** the Consent Order; seconded by

Dr. Forrest Parmley. All were in favor and the motion carried.

JAMES S. MASON, II, DPH

811 Greenbrier Drive
Murfreesboro, TN 37130

A Consent Order for Reinstatement of License for Dr. James Mason was presented by legal counsel,

Mr. Cecil Ross. Dr. Reggie Dilliard motioned to **accept** the Consent Order; seconded by Dr. Forrest

Parmley. All were in favor and the motion carried.

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SANDRA VAN SISE, DPH
2724 Overhill Circle
Nashville, TN 37214

Legal counsel, Mr. Cecil Ross, presented a Consent Order for Reinstatement of License for Dr.

Sandra Van Sise. Mrs. Barbara McAndrew motioned to **accept** the Consent Order; seconded by Dr.

Forrest Parmley. All were in favor and the motion carried.

THOMAS K. WHITLOW, JR., DPH
654 West Iris
Nashville, TN 37204

Legal counsel, Mr. Cecil Ross, presented a Consent Order for Revocation of Dr. Thomas Whitlow's pharmacist license. This matter was brought before the Board on May 15 - 16, 2002, as the Criminal Court of Davidson County declared Dr. Whitlow a convicted felon for violating the terms of his probation. Mr. Ross noted for the record that Dr. Whitlow has attached his pharmacist license to the signed Consent Order. Dr. Paula Hinson motioned to **accept** the Consent Order; seconded by Dr.

Reggie Dilliard. All were in favor and the motion carried.

SHATANIA EDMONDS, DPH
1708 Crystal Springs Lane
Hermitage, TN 37076

Mr. Cecil Ross, legal counsel, presented a Consent Order for Dr. Shatania Edmonds whereas she had two (2) customers by the same last name and gave the wrong medication to the wrong customer. A civil penalty of \$200 was assessed and the check was received some time ago. The board office remailed the Consent Order to Dr. Edmonds who in turn signed and returned as instructed. Dr. Reggie Dilliard motioned to **accept** the Consent Order; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

ADDENDUM TO LEGAL REPORT

Mr. Cecil Ross informed the Board that Attorney Wyla Posey with the Attorney General's office stated the pharmacy technician rules have been approved. Mr. Ross will file the rules with the Secretary of State's office by the end of next week after placing them in proper format. The rules will become effective forty-five (45) days after filing. The Government Operations Committee has the authority to over rule the effective date of the rules and may require Director Kendall Lynch to appear should the committee have any questions.

Director Kendall Lynch informed the Board that the technician's compliance with the rules would be the responsibility of the PIC. Information Systems has completed a temporary setup for the technicians in the RBS system. The technician application has been reviewed by the Board. A notice will be mailed to approximately 150 pharmacies a month. On January 4, 2003, the technicians should be fully implemented with our office.

MELISSA A. SHERER, DPH. - RECIPROCAL CANDIDATE DISCIPLINED IN ALABAMA

Dr. Melissa Sherer appeared before the Board to clarify the disciplinary action taken against her in Alabama. Director Kendall Lynch informed the Board that Dr. Sherer was a reciprocal candidate from Alabama. Dr. Sherer was licensed by Alabama in July, 1998. In June, 1999, she was arrested and charged with unlawful possession of controlled substances. In April, 2001, the Alabama Board issued a Notice of Hearing and Charges. In May, 2001, Dr. Sherer pled guilty and was sentenced to eight (8) years incarceration. All time was probated to supervised probation. In June, 2001 the Alabama Board cited Dr. Sherer for four (4) counts of violation of Alabama law: (1) dispensing

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controlled substances without valid prescription; (2) failure to maintain inventory; (3) possession of controlled substances and (4) dispensing legend drugs without a prescription. On June 4, 2002, Dr. Sherer obtained termination of probation through the court. Dr. Sherer has been granted an interview in the Chattanooga area and the pharmacy is petitioning for a waiver from DEA. Dr. Sherer stated she worked as a technician for fifteen (15) years and attended college at the age of 31 to earn her pharmacist degree. The Alabama Board placed Dr. Sherer on probation for a period of fifteen (15) years. Dr. Sherer stated she was not a user of alcohol or drugs. Dr. Sherer stated she worked a regular job at Princeton Hospital and relief work at a pharmacy in Jasper, Alabama. In 1998, the pharmacy was being sold to CVS and she was making preparations for the store closing. Dr. Sherer stated on the way home she was stopped by narcotic agents and they found drugs in her bag. The agents conducted no further search of her vehicle or home, nor was she asked to submit to a blood or urine screen. Dr. Sherer stated she was able to continue to work at the hospital and never encountered any problems. In May, 2001, under the advice of legal counsel, she pled guilty. Director Kendall Lynch reported to the Board several letters of recommendation reflecting Dr. Sherer's integrity, honesty, and asset to the profession. After board discussion, Dr. Forrest Parmley motioned to **allow Dr. Sherer to proceed with the reciprocity process and prepare a Consent Order to mirror the Alabama Board's Consent Order.** Mrs. Barbara McAndrew seconded the motion. Legal counsel, Cecil Ross, suggested the following provisions to Tennessee's consent order:

1. The respondent shall, continuously during the term of her probation, be subject to random sampling of urine, blood or bodily tissues, at her own expense, by Agents of the Board.
2. The respondent shall notify any prospective employer that she needs to obtain a DEA

waiver.

3. The respondent shall not serve as pharmacist-in-charge.
4. The respondent shall be employed at a pharmacy that maintains a perpetual inventory of controlled substances.
5. The pharmacy where she is employed, shall complete a periodic report of her performance.

Dr. Paula Hinson motioned a friendly amendment to the board's previous actions regarding the pharmacist-in-charge provision:

The respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restriction upon a show of good cause.

Mrs. Barbara McAndrew seconded the motion. All were in favor and the motion carried.

AD HOC RULES COMMITTEE – PROVISION FOR THE SUSPENSION OF BOARD OF PHARMACY RULES

Director Kendall Lynch suggested to the board that a provision for the suspension of the Board of Pharmacy rules needs to be in place in case of a declared emergency. The matter is being referred to the ad hoc rules committee for consideration.

DISTRICT III MEETING

Director Kendall Lynch and Mrs. Barbara McAndrew will attend the District III meeting to be held on Sunday, August 4, 2002 – Tuesday, August 6, 2002 in Louisville, Kentucky.

MALTA-GON 2002

The MALTA-GON 2002 meeting will be held September 15 – 18, 2002 in Little Rock, Arkansas.
Director Kendall Lynch will attend the meeting.

CHANGE IN BOARD MEETING DATE – SEPTEMBER, 2002

The board meeting scheduled for September 2002 had previously been scheduled for September 17 – 18, 2002. Due to the conflict with the MALTA-GON meeting, the board **re-scheduled the board meeting dates to September 24 – 25, 2002.**

NABP – ACCREDITATION OF LEBANON EDUCATIONAL PROGRAM

Director Kendall Lynch instructed the board that pursuant to T.C.A. §63-10-506 (d), which states, “All applicants for examination as pharmacists coming before the board must be graduates of a recognized school or college of pharmacy under rules established by the board and shall be examined in subjects as determined by the board. The Tennessee Board defines “recognized” under Rule 1140-1-.03 (2) as a college or school of pharmacy is a college or school of pharmacy which meets the minimum standards of the ACPE and appears in the ACPE “Annual Directory of Accredited Professional Programs of Colleges and Schools of Pharmacy.” Should the Council, which consists of the NABP Executive Committee and representatives of ACPE, deem it appropriate to award accreditation status, then candidates who graduate from the Doctor of Pharmacy program, beginning in July, 2002, would hold the status as a graduate from an ACPE accredited program. Depending on each state’s practice act, the graduates could qualify for the NAPLEX examination without having to earn the FPGEC certification. The Board referred this matter to the rules committee for discussion.

NABP – MPJE PASSING STANDARD

The National Association of Boards of Pharmacy has approved a new passing standard for the MPJE program which became effective June 1, 2002. The minimum passing score will be **75.**

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NABP – MPJE REVIEW COMMITTEE

Dr. Reggie Dilliard and Dr. Richard Hadden will participate on a MPJE Review Committee at NABP Headquarters on September 6 – 8, 2002 in Chicago, Illinois to critique approximately 2,000 law questions.

NABP – REIMPORTATION OF DRUGS FROM CANADA

The National Boards of Pharmacy furnished state boards with letters sent from the Food and Drug Administration (FDA), stating the purchase and importation of drugs by U. S. consumers from Canadian pharmacies is illegal.

TENNCARE – DEA NUMBER IDENTIFICATION OF PRESCRIBERS

The Tennessee Board of Pharmacy received a memorandum from H. Leo Sullivan regarding effective July 1, 2002, all pharmacy claims in the TennCare Program are required to include accurate DEA Prescriber Identification numbers. Prescribers are not required to place their DEA numbers on the face of all prescriptions, only those prescriptions for controlled drugs. The only change to the TennCare policy is that all pharmacy providers must submit the prescriber's DEA number on all pharmacy claims.

DESTRUCTION OF CONTROLLED SUBSTANCES

Director Kendall Lynch stated that due to the recent fire to the Nashville Thermal Plant, pharmacist investigators have been instructed to either destroy the controlled substances in the facility or have the pharmacy utilize a reverse distributor.

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**TENNESSEE DEPARTMENT OF REVENUE
PROFESSIONAL PRIVILEGE TAX**

Director Kendall Lynch mentioned that during the 2002 legislative session, the professional privilege tax was increased from \$200 - \$400 per year.

**PUBLIC ACTS, 2002
CHAPTER NO. 840
SENATE BILL NO. 2534
CONTROLLED SUBSTANCE MONITORING ACT OF 2001**

Director Kendall Lynch advised the members of the Board that the amendment to Tennessee Code Annotated, Title 53, Chapter 10, relative to controlled substances and to enact the “Controlled Substance Monitoring Act of 2001” was passed by the legislature on June 30, 2002 and approved by Governor Sundquist on July 3, 2002. Dr. Lynch recognized legal counsel, Cecil Ross; Deputy Commissioner Scott White; Gary Zelizer with the Department of Health ; and Dr. Baeteena Black with the Tennessee Pharmacists Association for their efforts.

**SHUTDOWN OF TENNESSEE STATE GOVERNMENT
JULY 1 – 3, 2002**

Director Kendall Lynch informed the Board due to the recent government shutdown, the Tennessee Department of Commerce and Insurance, Division of Regulatory Boards, has adopted an emergency administrative policy to allow for a fourteen (14) day grace period to all licensees who license expired June 30, 2002.

TENNESSEE BOARD OF PHARMACY

2003 BOARD CALENDAR

January	21-22 20	Board Meeting <i>Martin Luther King (Holiday)</i>
February	15-16 17 24-25	<i>Cookeville Update Seminar</i> <i>President's Day (Holiday)</i> <i>TPA Midyear Meeting</i>
March	1-2 8-9 15-16 18-19 22-23	<i>Chattanooga Update Seminar</i> <i>Johnson City Update Seminar</i> <i>Memphis Update Seminar</i> Board Meeting <i>Knoxville Update Seminar</i>
April	5-6 12-13 18	<i>Nashville Update Seminar</i> <i>Jackson Update Seminar</i> <i>Good Friday (Holiday)</i>
May	3-7 7-9 14-15 26	<i>NABP Meeting - Philadelphia, PA</i> <i>Fuert Walker Sharp Meeting - Paris Landing</i> Board Meeting <i>Memorial Day (Holiday)</i>
June	??	<i>Jurisprudence Exam (Memphis)</i>
July	4 15-18 22-23	<i>Independence Day (Holiday)</i> <i>TPA Convention - Kingsport, TN</i> Board Meeting
August	3-5	<i>District III-Savannah, GA</i>
September	1 16-17	<i>Labor Day (Holiday)</i> Board Meeting
October	() ()	<i>MALTAGO</i> <i>Triparite</i>
November	4 11 18-19 27-28	<i>Election Day</i> <i>Veteran's Day (Holiday)</i> Board Meeting <i>Thanksgiving (Holiday)</i>

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December

25

Christmas (Holiday)

**UNIVERSITY OF TENNESSEE COLLEGE OF PHARMACY
ACPE ACCREDITATION PROCESS**

Director Kendall Lynch stated the U. T. College of Pharmacy would prefer a non-U.T. graduate to attend the accreditation process. Dr. Alan Corley will attend the ACPE accreditation as all members of the board are U.T. graduates.

**PAULA B. HINSON, DPH
EXPIRATION OF BOARD OF PHARMACY TERM**

President Alan Corley and Director Kendall Lynch, on behalf of the members of the Board and office staff, expressed their appreciation and farewell to Dr. Hinson for her efforts and contributions to the Board of Pharmacy. Dr. Hinson was also recognized for her contribution to the TIPS program. Good luck in your future endeavors, Dr. Hinson!

ADJOURNMENT

President Alan Corley motioned to adjourn the Board of Pharmacy meeting at 12:00 p.m. CDT on July 11, 2002; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

Respectfully submitted,

Alan Corley, President

Kendall M. Lynch, Director

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